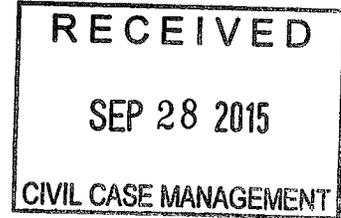


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By: James R. Michael (048741991)
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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MERCER COUNTY
DOCKET NO.: MER-L- -15

CRAIG SASHIHARA, Director,	:	
Division on Civil Rights,	:	
	:	
	:	<u>Civil Action</u>
Plaintiff,	:	
	:	COMPLAINT
v.	:	
	:	
CONTINENTAL AUTO PARTS, L.L.C.,	:	
	:	
Defendant.	:	

Plaintiff, Craig Sashihara, Director of the Division on Civil Rights, with offices located at 140 E. Front Street, Sixth Floor, Trenton, New Jersey 08625, by way of Complaint against defendant, Continental Auto Parts, L.L.C., alleges as follows:

PRELIMINARY STATEMENT

1. At all times relevant to this Complaint, Anthony Sturgis was a 54 year-old African-American man who has many years of experience as a delivery driver. Sturgis submitted his resume in response to advertisement posted by Continental Auto Parts

seeking delivery drivers. Within an hour of submitting his resume, Sturgis received a call to set up an interview for the next day. While Sturgis felt they had a very amiable telephone conversation about the job, he felt there was a completely different attitude towards him when they met in person. At the interview, Sturgis was asked about his age and his health. He was told he needed a second interview, but was never contacted for the second interview and his inquiries about the interview were never returned. Instead, Continental hired two significantly younger delivery drivers (ages 28 and 37), neither of whom was African-American.

2. The Division on Civil Rights conducted an investigation of a complaint Sturgis filed with the agency alleging that he was the victim of race and/or age discrimination by Continental Auto Parts. During the investigation, the agency requested that Continental supply copies of all advertisements for delivery drivers and copies of all applications and resume received. Continental told the Division on Civil Rights that it did not post any job advertisements, and that the only applications received were from Sturgis and the two individuals it hired as delivery drivers. Upon further investigation, the Division on Civil Rights learned that Continental had, in fact, posted three separate advertisements for delivery drivers over a six-week period, and that it had received many applications in response to the ads, including several from applicants that had significantly more delivery driver experience than the individuals hired.

3. The Division on Civil Rights brings this action alleging that Continental Auto Parts engaged in unlawful discrimination in connection with its screening of applicants and hiring of delivery drivers, and that it engaged in unlawful inquiries during the job application process.

JURISDICTION AND THE PARTIES

4. The Attorney General of New Jersey (“Attorney General”) is charged with the responsibility of enforcing the Law Against Discrimination (“LAD”), N.J.S.A. 10:5-1 et seq. The Attorney General is authorized to proceed against any person to compel compliance with any provisions of the LAD or to prevent violations or attempts to violate any such provisions and to file a complaint in Superior Court alleging unlawful discriminatory conduct. N.J.S.A. 10:5-13.

5. The Director of the Division on Civil Rights (“Director”) is charged with the responsibility of administering the LAD on behalf of the Attorney General. The Division on Civil Rights (“DCR”) is charged, inter alia, with the responsibility of preventing and eliminating discrimination in employment, housing and access to public accommodations, as well as preventing the interference with rights protected under the LAD. N.J.S.A. 10:5-4, 10:5-6, 10:5-12. This action is brought by the Director in his official capacity pursuant to his authority under N.J.S.A. 10:5-13.

6. Defendant Continental Auto Parts, L.L.C. (“Continental”) is a limited liability company formed under the laws of the State of New Jersey, having its principal place of business at 768 Frelinghuysen Avenue, Newark, New Jersey. Continental operates a retail business that sells after-market automobile parts and accessories. It maintains warehouse branches in New York, New Jersey and Pennsylvania. At all times relevant to this complaint, Continental maintained a warehouse branch at 717K Fellowship Road in Mount Laurel, New Jersey.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

7. As part of its retail operations, Continental hires delivery drivers to deliver its products to clients.

8. On or about November 28, 2012, Continental posted an advertisement on the website Craigslist stating that it was seeking experienced route drivers to deliver parts to automobile shops in New Jersey and Pennsylvania. The advertisement stated that interested persons should come to Continental's office at 717K Fellowship Road in Mount Laurel to complete an application.

9. Anthony Sturgis saw the advertisement on Craigslist and decided to apply for the delivery driver position. He researched Continental Auto Parts on the internet, and saw that he could also submit his resume for positions on the company website. He submitted his resume through the website, as well as by responding by email to the Craigslist posting.

10. Sturgis's resume indicated that he had obtained his Associate's Degree in Criminal Justice, and had worked for many years as a delivery driver and in the security business. Sturgis had recently been laid off from his delivery driver job, and was anxious to find new employment.

11. About an hour after submitting his resume, Sturgis received a telephone call inviting him to come to Continental's office in Mount Laurel for an interview. He scheduled to meet the next day with Robert Harkinson, manager of the Mount Laurel location.

12. Sturgis felt that Harkinson was enthusiastic during their telephone call about the opportunity for Sturgis to work at Continental, but seemed far less enthusiastic after initially seeing him in person.

13. During the interview, Harkinson asked Sturgis how old he was, to which Sturgis replied that he was 54. Harkinson also asked Sturgis about the state of his health, to which Sturgis replied that it was good.

14. At the conclusion of the interview, Harkinson told Sturgis that he would need a second interview with Harkinson's supervisor before a job offer could be made. Harkinson told Sturgis that he would be contacted to set up the second interview.

15. Sturgis never received a call to set up the second interview. Sturgis called Harkinson several times to inquire about the second interview, but it was never scheduled.

16. Shortly after Complainant's interview, Continental hired E.Q., who was 37 years old, and R.G., who was 28 years old, as delivery drivers. Neither E.Q. or R.G. are African-American. In fact, there were no African-American employees at Continental's Mount Laurel facility.

17. On December 19, 2012, Sturgis filed a verified complaint with the DCR alleging that Continental refused to hire him because of his race and/or age. DCR initiated an investigation of the complaint.

18. As part of the investigation, DCR requested that Continental supply copies of all advertisements for delivery drivers for the Mount Laurel location as well as all applications received for delivery driver positions. Continental assured DCR that it not

posted any advertisements for delivery driver positions, and that the only applications it had received for such positions were from Sturgis, E.Q. and R.G.

19. Despite Continental's claims it had not posted any advertisements, Sturgis had supplied DCR with a copy of the November 28, 2012 Craigslist advertisement that he had responded to. DCR then served Craigslist with a *subpoena duces tecum* to obtain all advertisements posted by Continental. In response to the subpoena, Craigslist provided DCR with three separate advertisements posted seeking delivery drivers for Continental's Mount Laurel location. The advertisements were posted on November 28, 2012; again on January 15, 2013; and again on February 11, 2013.

20. Further investigation by DCR found that Continental received many more applications in response to these advertisements than just from Sturgis, E.Q. and R.G. Many of the applications received were from applicants that had significantly more delivery driver experience than either E.Q. or R.G. For example, the application of M.B., who was 61 years old, indicated he had worked as a driver for FedEx for more than 24 years and as a driver for an auto parts store. The application of J.M., who was 54 years old, indicated he had more than 25 years of experience as a driver, including 21 years as a driver for UPS. The application of T.M., who was 54 years old, indicated that he had more than twenty years of experience as a commercial driver and mechanic, taught auto mechanics for 18 years, and that he held a Class A Commercial Driver's License as well as Automotive Service Excellence certification. The application of J.C., who was 43 years old, indicated he had 15 years of commercial driving experience.

21. Despite their qualifications, neither M.B., J.M., T.M., or J.C. were ever contacted by Continental in response to their application.

22. Following its investigation, the DCR Director issued a determination finding that probable cause exists to credit the allegations of race and age discrimination in connection with the complaint filed with DCR by Sturgis.

23. Upon information and belief, other applicants who were African-American or who were older have sought employment with Continental but were denied.

COUNT ONE

AGE DISCRIMINATION IN VIOLATION OF LAW AGAINST DISCRIMINATION

24. Plaintiff repeats the allegations of paragraphs 1 to 23 of the Complaint as if they had been set forth at length herein.

25. The LAD, at N.J.S.A. 10:5-12(a), prohibits, among other things, employers from discriminating against employees or job applicants on the basis of age.

26. Continental is an "employer" as that term is defined in the LAD.

27. Continental subjected Sturgis to differential treatment and refused to hire him because of his age, in violation of the LAD.

28. Continental subjected other job applicants, including but not limited to M.B., J.M., T.M., and J.C, to differential treatment and refused to consider them for employment because of their age.

29. The LAD violations described herein were committed by Defendant oppressively, willfully and maliciously.

30. As a direct and proximate result of Defendant's LAD violations, Sturgis and others suffered damages, including but not limited to, humiliation, emotional distress, mental pain and anguish, lost wages, and continues to suffer losses in earning, job

experience, retirement benefits, and other employee benefits that they would have received absent Defendant's unlawful conduct.

COUNT TWO

RACE DISCRIMINATION IN VIOLATION OF LAW AGAINST DISCRIMINATION

31. Plaintiff repeats the allegations of paragraphs 1 to 30 of the Complaint as if they had been set forth at length herein.

32. The LAD, at N.J.S.A. 10:5-12(a), prohibits, among other things, employers from discriminating against employees or job applicants on the basis of race.

33. Continental is an "employer" as that term is defined in the LAD,

34. Continental subjected Sturgis to differential treatment and refused to hire him because of his race, in violation of the LAD.

35. The LAD violations described herein were committed by Defendant oppressively, willfully and maliciously.

36. As a direct and proximate result of Defendant's LAD violations, Sturgis suffered damages, including but not limited to, humiliation, emotional distress, mental pain and anguish, lost wages, and continues to suffer losses in earning, job experience, retirement benefits, and other employee benefits that he would have received absent Defendant's unlawful conduct.

COUNT THREE

UNLAWFUL PRE-EMPLOYMENT INQUIRIES IN VIOLATION OF THE LAW AGAINST DISCRIMINATION

37. Plaintiff repeats the allegations of paragraphs 1 to 36 of the Complaint as if they had been set forth at length herein.

38. The LAD, at N.J.S.A. 10:5-12(c), prohibits employers from making any inquiry in connection with prospective employment which expresses any limitation, specification or discrimination based on, among other things, age or disability.

39. During a job interview with Sturgis, Continental inquired as to his age and his state of health, in violation of N.J.S.A. 10:5-12(c).

40. As a direct and proximate result of Defendant's LAD violations, Sturgis suffered damages, including but not limited to, humiliation, emotional distress, mental pain and anguish.

WHEREFORE, Plaintiff demands judgment against Defendant Continental Auto Parts, L.L.C., and that the Court grant the following relief:

(a) Ordering Defendant to cease and desist from subjecting employees and job applicants to acts of discrimination;

(b) Ordering Defendant to submit to training and monitoring by DCR for a period of two years;

(c) Ordering remedial relief, including but not limited to back pay, front pay, lost benefits and interest, sufficient to make whole Sturgis, and to similarly situated job applicants of Continental Auto Parts, for losses suffered as a result of discrimination against them as alleged in this complaint; and

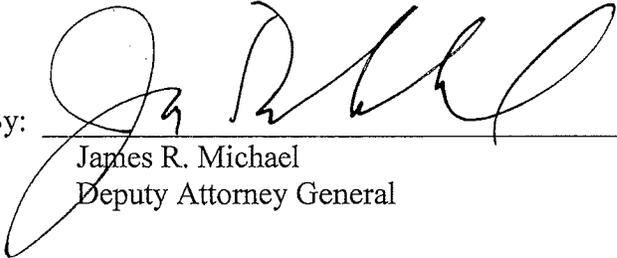
(d) Awarding compensatory damages to Sturgis, and similarly situated job applicants of Continental Auto Parts for emotional distress and mental pain and humiliation caused by Defendant's discriminatory conduct;

(e) Awarding Plaintiff Director, Division on Civil Rights, punitive damages because of the intentional and willful nature of the Defendant's conduct, pursuant to N.J.S.A. 10:5-13;

(f) Awarding costs, including attorneys' fees, pursuant to N.J.S.A. 10:5-27.1; and

(g) Awarding such additional relief as the interests of justice may require.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff New Jersey Division on
Civil Rights

By: 

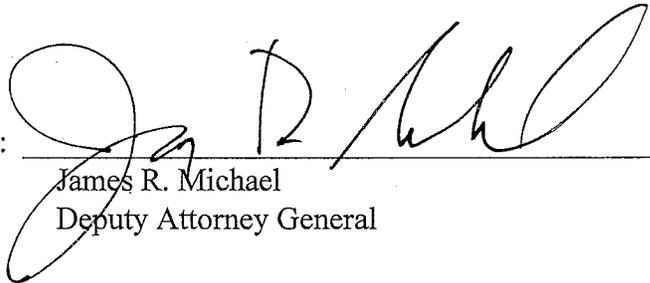
James R. Michael
Deputy Attorney General

Dated: 9/30/15

DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:25-4, James R. Michael, Deputy Attorney General, is hereby designated as trial counsel on behalf of Plaintiff.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff New Jersey Division on
Civil Rights

By: 
James R. Michael
Deputy Attorney General

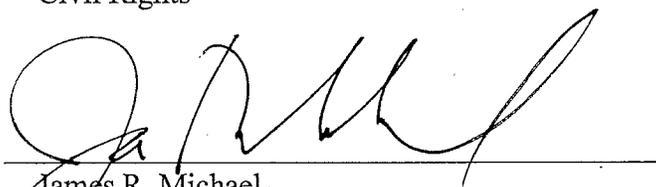
Dated: 9/28/15

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to R. 4:10-2(b), demand is made upon each defendant that it disclose to plaintiff's counsel whether or not there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or indemnify or reimburse such defendant for payments to satisfy any judgment rendered herein and provide plaintiff's counsel with those insurance agreements or policies, including, but not limited to all and any declaration sheets. This demand shall include not only primary coverage, but also all and any excess, catastrophe and umbrella policies.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff New Jersey Division on
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By:



James R. Michael
Deputy Attorney General

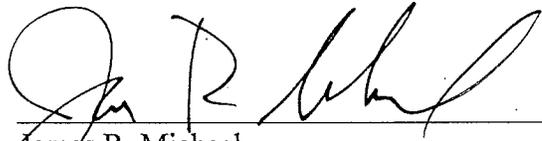
Dated: 9/2/15

RULE 4:5-1 CERTIFICATION

I certify, to the best of my information and belief, that the matter in controversy in this action is not the subject of any other action between the parties. I further certify that the matter in controversy in this action is not the subject of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action. There is presently pending an administrative complaint filed with the Division on Civil Rights against Continental Auto Parts, L.L.C. entitled Sturgis v. Continental Auto Parts, DCR Docket No. EC24WB-63513. Complainant Sturgis has indicated that he will expeditiously withdraw his administrative complaint filed with the Division upon the filing of the instant action.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff New Jersey Division on
Civil Rights

By:


James R. Michael
Deputy Attorney General

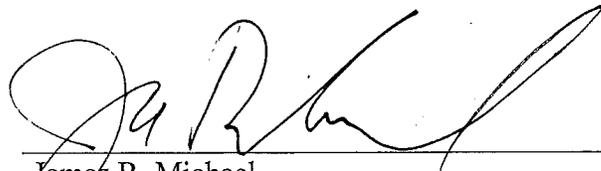
Dated: 9/28/15

RULE 4:5-1(b)(3) COMPLIANCE

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff New Jersey Division on
Civil Rights

By:



James R. Michael
Deputy Attorney General

Dated: 7/24/15